

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROGER A. HORNBROOK,

Plaintiff,

v.

MICHAEL J. ASTURE,
Commissioner of Social Security,

Defendant.

Civil Action No. 09-40 Erie

MEMORANDUM ORDER

Plaintiff's social security complaint was received by the Clerk of Court on February 25, 2009 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 13], filed on July 23, 2010, recommended that the Defendant's Motion for Summary Judgment [Doc. No. 11] be denied, and that the Plaintiff's Motion for Summary Judgment [Doc. No. 9] be denied to the extent it requests an award of benefits, but granted to the extent it seeks a vacatur of the administrative decision of the Commissioner of Social Security and a remand for further administrative proceedings. The parties were allowed fourteen (14) days from the date of service to file objections. No objections were filed. After de novo review of the documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 10th day of August, 2010;

IT IS HEREBY ORDERED that the Defendant's Motion for Summary Judgment [Doc. No. 11] is DENIED; and the Plaintiff's Motion for Summary Judgment [Doc. No. 9] is DENIED insofar as it seeks an award of benefits, but GRANTED insofar as it seeks a vacatur of the Defendant's administrative decision and a remand for further proceedings. The decision of the Commissioner of Social Security is hereby VACATED and the case REMANDED to him for further administrative proceedings.

The Report and Recommendation [Doc. No. 13] of Magistrate Judge Baxter, filed

on July 23, 2010, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge